



# Foreign Affairs Manual

## VOLUME 9 – Visas

**Change Transmittal:** VISA-1995

**Date:** June 06, 2013

## 9 FAM 40.41 NOTES

### *Changes*

1. This Change Transmittal updates 9 FAM 40.41 Notes by adding section N3, Aliens Exempt from INA 212(A)(4) and removing section N11.4, Reserved. Subsequent sections are renumbered as shown below and references are updated throughout:

Old Location	Old Title	New Location	New Title
9 FAM 40.41 N3	Applying INA 212(a)(4) to Immigrant VIsa Applicants	9 FAM 40.41 N4	Applying INA 212(a)(4) to Immigrant VIsa Applicants
9 FAM 40.41 N3.1	Determining Public Charge Inadmissibility	9 FAM 40.41 N4.1	Determining Public Charge Inadmissibility
9 FAM 40.41 N3.2	Applicants Who Are Required to Submit Form I-864	9 FAM 40.41 N4.2	Applicants Who Are Required to Submit Form I-864
9 FAM 40.41 N3.3	Effect of Form I-864 on Public Charge Determinations	9 FAM 40.41 N4.3	Effect of Form I-864 on Public Charge Determinations
9 FAM 40.41 N3.4	Applicants Who Are Not Required to Submit Form	9 FAM 40.41 N4.4	Applicants Who Are Not Required to Submit Form

	I-864		I-864
9 FAM 40.41 N3.4-1	Certain IR-2 and IR-3 Applicants who Benefit from the Child Citizenship Act.	9 FAM 40.41 N4.4-1	Certain IR-2 and IR-3 Applicants who Benefit from the Child Citizenship Act.
9 FAM 40.41 N3.4-2	Aliens With 40 Quarters of Work Under the Social Security Act (SSA)	9 FAM 40.41 N4.4-2	Aliens With 40 Quarters of Work Under the Social Security Act (SSA)
9 FAM 40.41 N3.4-3	Other Aliens Exempt from the Form I-864 Requirement.	9 FAM 40.41 N4.4-3	Other Aliens Exempt from the Form I-864 Requirement.
9 FAM 40.41 N4	Determining "Totality of the Circumstances"	9 FAM 40.41 N5	Determining "Totality of the Circumstances"
9 FAM 40.41 N4.1	Consideration of Current or Prior Receipt of Public Assistance	9 FAM 40.41 N5.1	Consideration of Current or Prior Receipt of Public Assistance
9 FAM 40.41 N4.2	Health	9 FAM 40.41 N5.2	Health
9 FAM 40.41 N4.3	Family Status	9 FAM 40.41 N5.3	Family Status
9 FAM 40.41 N4.4	Applicant's Age	9 FAM 40.41 N5.4	Applicant's Age
9 FAM 40.41 N4.5	Education and Work Experience	9 FAM 40.41 N5.5	Education and Work Experience
9 FAM 40.41 N4.6	The Applicant's Financial Resources	9 FAM 40.41 N5.6	The Applicant's Financial Resources
9 FAM 40.41 N4.6-1	Aliens Subject to INA	9 FAM 40.41 N5.6-1	Aliens Subject to INA

	212(a)(4)(C)/(D)		212(a)(4)(C)/(D)
9 FAM 40.41 N4.6-2	Alternative Evidence of Support in Cases When Form I-864 is Not Required	9 FAM 40.41 N5.6-2	Alternative Evidence of Support in Cases When Form I- 864 is Not Required
9 FAM 40.41 N4.6-3	Use of Form I- 134, Affidavit of Support	9 FAM 40.41 N5.6-3	Use of Form I- 134, Affidavit of Support
9 FAM 40.41 N4.6-4	Surety Bonds	9 FAM 40.41 N5.6-4	Surety Bonds
9 FAM 40.41 N4.7	Employment Considerations and the I-864	9 FAM 40.41 N5.7	Employment Considerations and the I-864
9 FAM 40.41 N4.7-1	Effect of Applicant's Own Employment in the United States	9 FAM 40.41 N5.7-1	Effect of Applicant's Own Employment in the United States
9 FAM 40.41 N4.7-2	Information Contained on Approved Labor Certification	9 FAM 40.41 N5.7-2	Information Contained on Approved Labor Certification
9 FAM 40.41 N5	Completion of the Form I-864	9 FAM 40.41 N6	Completion of the Form I-864
9 FAM 40.41 N5.1	The Affidavit of Support (AOS) Packet	9 FAM 40.41 N6.1	The Affidavit of Support (AOS) Packet
9 FAM 40.41 N5.2	Defining "Sponsor" for Purposes of the Affidavit of Support (AOS)	9 FAM 40.41 N6.2	Defining "Sponsor" for Purposes of the Affidavit of Support (AOS)
9 FAM 40.41 N5.2-1	Petitioner Must Submit Form I-	9 FAM 40.41 N6.2-1	Petitioner Must Submit Form I-

	864 or Form I-864-EZ		864 or Form I-864-EZ
9 FAM 40.41 N5.2-2	Petitioner May Limit The Number of Applicants Sponsored	9 FAM 40.41 N6.2-2	Petitioner May Limit The Number of Applicants Sponsored
9 FAM 40.41 N5.3	Sponsor When the Petitioner is a Business Entity	9 FAM 40.41 N6.3	Sponsor When the Petitioner is a Business Entity
9 FAM 40.41 N5.4	Substitute Sponsor When the Petitioner Has Died	9 FAM 40.41 N6.4	Substitute Sponsor When the Petitioner Has Died
9 FAM 40.41 N5.5	Supporting Evidence Which Must Be Submitted with Form I-864	9 FAM 40.41 N6.5	Supporting Evidence Which Must Be Submitted with Form I-864
9 FAM 40.41 N5.6	Evidence of Additional Assets	9 FAM 40.41 N6.6	Evidence of Additional Assets
9 FAM 40.41 N5.7	Definition of Income	9 FAM 40.41 N6.7	Definition of Income
9 FAM 40.41 N6	"Domicile" and the Form I-864	9 FAM 40.41 N7	"Domicile" and the Form I-864
9 FAM 40.41 N6.1	Definition Of Domicile	9 FAM 40.41 N7.1	Definition Of Domicile
9 FAM 40.41 N6.1-1	Maintaining U.S. Domicile While Living Abroad Temporarily	9 FAM 40.41 N7.1-1	Maintaining U.S. Domicile While Living Abroad Temporarily
9 FAM 40.41 N6.1-2	Establishing the Existence of a U.S. Domicile	9 FAM 40.41 N7.1-2	Establishing the Existence of a U.S. Domicile
9 FAM 40.41	U.S. Domicile and	9 FAM 40.41	U.S. Domicile

N6.1-3	Employment- Based Preference Applicants	N7.1-3	and Employment- Based Preference Applicants
9 FAM 40.41 N6.2	Employment Abroad Meeting Requirements of INA 319(b)(1)	9 FAM 40.41 N7.2	Employment Abroad Meeting Requirements of INA 319(b)(1)
9 FAM 40.41 N7	"Household Members" On the Form I-864	9 FAM 40.41 N8	"Household Members" On the Form I-864
9 FAM 40.41 N7.1	Definition of Household Member	9 FAM 40.41 N8.1	Definition of Household Member
9 FAM 40.41 N7.2	Use of Form I- 864-A By a Sponsor and a Household Member	9 FAM 40.41 N8.2	Use of Form I- 864-A By a Sponsor and a Household Member
9 FAM 40.41 N7.3	Use of Form I- 864-A By a Sponsor and a Principal Applicant	9 FAM 40.41 N8.3	Use of Form I- 864-A By a Sponsor and a Principal Applicant
9 FAM 40.41 N8	Defining "Joint Sponsor"	9 FAM 40.41 N9	Defining "Joint Sponsor"
9 FAM 40.41 N9	Legal Obligations of Sponsors	9 FAM 40.41 N10	Legal Obligations of Sponsors
9 FAM 40.41 N9.1	Duration of Sponsors' Obligation Under Form I-864	9 FAM 40.41 N10.1	Duration of Sponsors' Obligation Under Form I-864
9 FAM 40.41 N9.2	Death of a Sponsor	9 FAM 40.41 N10.2	Death of a Sponsor
9 FAM 40.41	"Means-Tested"	9 FAM 40.41	"Means-Tested"

N10	Benefits	N11	Benefits
9 FAM 40.41 N11	Public Charge Consideration in Nonimmigrant Cases	9 FAM 40.41 N12	Public Charge Consideration in Nonimmigrant Cases
9 FAM 40.41 N11.1	Nonimmigrants and INA 212(a)(4)	9 FAM 40.41 N12.1	Nonimmigrants and INA 212(a)(4)
9 FAM 40.41 N11.2	Additional Evidence of Support in Nonimmigrant Visa Cases	9 FAM 40.41 N12.2	Additional Evidence of Support in Nonimmigrant Visa Cases
9 FAM 40.41 N11.3	Unwarranted Requirements	9 FAM 40.41 N12.3	Unwarranted Requirements
9 FAM 40.41 N11.4	Reserved	Deleted	
9 FAM 40.41 N11.5	Alien's Government Requiring Evidence of Support	9 FAM 40.41 N12.4	Alien's Government Requiring Evidence of Support
9 FAM 40.41 N11.6	Aliens Seeking Admission for Medical Treatment	9 FAM 40.41 N12.5	Aliens Seeking Admission for Medical Treatment
9 FAM 40.41 N11.7	Alien Seeking Admission as K Nonimmigrant	9 FAM 40.41 N12.6	Alien Seeking Admission as K Nonimmigrant
9 FAM 40.41 N11.8	Surety Bonds and Non-Immigrant Visa Applicants	9 FAM 40.41 N12.7	Surety Bonds and Non- Immigrant Visa Applicants
9 FAM 40.41 N12	INA 221(g) vs. INA 212(a)(4) Refusals	9 FAM 40.41 N13	INA 221(g) vs. INA 212(a)(4) Refusals

2. Current changes are shown in *italic* and *dark magenta* to make it easier for the reader to identify them. However, if 50% or more of the subchapter is being revised, the *italic* and *dark magenta* can make it harder to identify changes. In those cases, normal black font is used throughout.
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1. Remove and discard the old 9 FAM 40.41 Notes (CT:VISA-1980; 03-28-2013) and insert the new 9 FAM 40.41 Notes (CT:VISA-1995; 06-06-2013).
2. After inserting the material in the binder, insert this change transmittal letter immediately following the CT Checklist, then fill in the entry line for CT:VISA-1995 and initial.

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